



# WISCONSIN REGULATORY DIGEST

A Publication of the  
**DEPARTMENT OF REGULATION AND LICENSING FOR PRIVATE DETECTIVES**  
**Volume 10, No. 1 AND PRIVATE DETECTIVE AGENCIES JUNE, 1998**

## Renewal of Licenses

All licenses will expire on August 31, 1998. Every private detective who wishes to act as a private detective after August 31, 1998, must renew his or her license by September 1, 1998. Renewal applications will be sent to all private detectives and private detective agencies in July, 1998. The renewal fee for agencies will be \$41; the fee for private detectives will be \$178, plus \$5 for a criminal records check.

If you submit your application after August 31, 1998, you will still be permitted to renew your license; however, you will be charged an additional \$25 late filing fee. In addition, if an agency or a private detective provides services without a license after September 1, 1998, the private detective and the agency may be disciplined and be required to pay for the cost of the investigation and prosecution.

**You must inform the Department of any change in the address which you have on file with the Department. Failure to inform the Department of an address change, can result in a \$50 forfeiture. This already has been a problem for the Department. At least 200 copies of the last**

## PRIVATE DETECTIVE ADVISORY COMMITTEE

### Members of the Committee:

Johnny W. Cash (Sun Prairie)  
James E. Gilboy, Jr. (Hales Corners)  
John R. Schatzman (Milwaukee)  
Other committee members to appointed soon.

### Administrative Staff:

Cletus J. Hansen, Division Administrator

### Executive Staff:

Marlene A. Cummings, Secretary  
Patricia McCormack, Deputy Secretary  
Myra Shelton, Executive Assistant

**issue of the Regulatory Digest For Private Security Persons have been returned "undeliverable."**

**Employers, it is imperative that you make sure all of your currently-employed private detectives and private security personnel have filed a renewal application before September 1, 1998. Due to the fact that applications may be in transit and in processing during September, we recommend that you wait until about October 1, 1998, and then verify with every person currently working for you that they have received a new permit. If they haven't, do not assign them to duty.**

## False Information on Applications

Tell your friends and prospective employees that if they lie on their application about convictions of crime, their permit will be denied or delayed just for the fact that they lied. It is best to provide complete information in the application. Not all convictions will result in denial of an application. Felony convictions will result in a denial; however, misdemeanors and ordinance violations are reviewed to determine the nature of the conviction, the number of convictions, the number of years that have gone by since the conviction, evidence of rehabilitation and other similar factors.

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## Statute and Rule Book

The Department has revised its statute and rule book which was previously called the Study Manual for the Wisconsin Private Detective Examination. The current rule book is called the Wisconsin Statutes and

Administrative Rules Relating to the Practice of Private Detectives and Private Security Personnel. The former book had a blue cover; the newer book is light green in color, so we can readily distinguish it from the former book. This Statute and Rules book may be purchased from the Department for \$5.28 (including tax, postage and handling).

This book still has some introductory remarks for applicants for the private detective examination and, unlike other statute and rule books in the Department, it still has some narrative chapters that explain the laws. It contains additional materials relating to both private security persons and private detectives. We included applicable sections of the statutes which relate to self-defense, the use of force and the carrying of firearms. We also added chapters of the Wisconsin Statutes relating to evidence (witnesses; expert testimony; hearsay; authentication and identification; and the contents of writings, recordings and photographs). The most obvious change was the replacement of the old administrative rules with the new rules.

### **License or Permit Needed Before Practice**

Private Detectives and Security Persons may not begin performing services for which a credential is needed until they have received a license or a permit from the Department of Regulation and Licensing. The filing of an application is not sufficient authorization to practice.

### **Advisory Committee**

The Private Security Advisory Committee has had three meetings since the last issue of the Regulatory Digest. The committee met on January 7, 1998, March 5, 1998 and May 7, 1998. All meetings are held at 1400 E. Washington Avenue in Madison and are open to the public.

The following are issues discussed by the committee and actions taken:

- The committee recommended that the Department reject any proposal to have the Department involved in the recovery of an employer's property from private security personnel who leave the employer's company. There are other legal remedies available for these matters.
- The committee recommended that the Department not seek an amendment of the Wisconsin Statutes which would require security guards hired by commercial and industrial companies to be regulated by the Department. The current law says that **employees** of commercial and industrial companies do not have to have a private security permit, even if they are in uniform and armed (we're talking here about "employees" in the most strict sense of the term; we're not talking about private security done under contract with businesses).

- The committee requested more information from the Department about permit renewal procedures, the costs of the Department and the fees received by the Department, so that the committee can provide its recommendation concerning its tentative position that private security permits ought to be renewed every two years on the permit anniversary date, rather than on the same date for everyone.
- The committee recommended that the statutes be changed, so that the Department may issue a 90-day private security permit for \$15 or an amount which is necessary to cover the costs of the Department.
- The committee recommended that the Department should reject any proposal to have the Department involved in approving uniforms worn by private security persons employed by private security companies.
- The committee requested clarification of the statute which says that a person directly or indirectly employed by the state or a municipality is exempt from the requirement of a private detective license or a private security permit when providing private detective or private security services to such an agency. Legal Counsel, Bob Ganch, has already done some research, but will review the legislative files at the State Law Library.

Note that private security companies are licensed by the Department as private detective agencies, even if they only provide private security services to the public.

### **Bodyguards**

A person who acts as a private security person and does not wear a uniform, such as a bodyguard, must be licensed as a private detective. The person may not carry a concealed weapon unless he or she is a police officer.

### **Changes of Employment**

Employers must notify the Department whenever a private detective or a private security person leaves their employment and whenever a person who already has a private detective license or a private security permit becomes employed by them. The notice must be provided to the Department within 5 days after the employment action. The Department has a form available for this purpose.

### **Handcuffing, Searching and Detaining People**

A licensed private security company has recently made the paper regarding handcuffing people, subjecting them to personal searches and scouring their home for drugs -- all without search powers and law enforcement status, according to the newspaper account. The Department's Legal Counsel for private security regulation was quoted as saying: "(Security Guards) don't have any authority above and beyond a

regular citizen as far as depriving someone of their liberty, confining them or searching them. A citizen does have the right to arrest another person, but that appears, according to case law, to be only in situations where a crime has been committed in their presence, involving a felony, or a misdemeanor only where the public's security requires, that is acts that involve, threaten or invite violence." Make sure your employer has given you clear instructions about authority to detain people in various circumstances.

### **Selected Statutes Relating to Private Detectives and Private Detective Agencies**

A section similar to this was included in the last issue of the Regulatory Digest For Private Security Persons. That section quoted Section 939.48 of the Wisconsin Statutes, entitled "Self-defense and defense of others." Since most private detectives do not act as private security persons and carry firearms, we have not included the self-defense section in this issue.

Of greater interest to private detectives is the following:

#### **Section 134.59 Felons, burglar alarm installation.**

(1) No person may intentionally hire as a burglar alarm installer a felon who has not been pardoned. Any person engaged in the business of installing burglar alarms may request the department of justice to do a criminal history search on any person whom that person hires or proposes to hire as a burglar alarm installer. (2) No person engaged in the business of installing burglar alarms may intentionally allow a felon who has not been pardoned to have access to individual burglar alarm installation records. (3) Any person who violates sub. (1) or (2) may be required to forfeit not more than \$1,000.

**Section 940.34 (2) (b)** (Note: this is not a direct quote from the statute. Certain subsections have been selected and edited for private detectives and private security persons.) Any person licensed as a private detective or granted a private security permit under s. 440.26 who has reasonable grounds to believe that a crime is being committed or has been committed shall notify promptly an appropriate law enforcement agency of the facts which form the basis for the belief.

(d) A person need not comply with this subsection if any of the following apply:

1. Compliance would place him or her in danger.
2. Compliance would interfere with duties the person owes to others.
3. The crime or alleged crime has been reported to the appropriate law enforcement agency by others.

A private detective or private security person need not comply until after he or she has summoned or provided assistance to a victim.

If a person renders emergency care for a victim, s. 895.48 (1) applies. Any person who provides other reasonable assistance under this section is immune from civil liability for his or her acts or omissions in providing the assistance. This immunity does not apply if the person receives or expects to receive compensation for providing the assistance. Note that State v. LaPlante, 186 W (2d) 427, ruled that this section is not unconstitutional. For a conviction, it must be proved that an accused believed a crime was being committed and that a victim was exposed to bodily harm. The reporting requirement does not require the defendant to incriminate himself or herself as the statute contains no mandate that an individual identify oneself.

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### **Discipline**

<b>HECTOR RODRIQUEZ</b>	<b>SUSPENSION</b>
Milwaukee, WI	1 year

Respondent, while operating Midevil Investigations, Inc., employed Jose Gutierrez to work as a private security person. While employed Gutierrez did not hold a private detective license or a private security permit. Respondent was convicted of a misdemeanor for employing Gutierrez. Respondent was assessed the cost of the proceedings. Effective 2/26/98.

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<b>TYRONE DOTSON</b>	<b>LIMITATION</b>
Milwaukee, WI	

Applicant provided false information on an application. Applicant required to pay \$150 to the Department or his permit will be suspended. Applicant may not carry a firearm. Effective 12/9/97.

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<b>MICHAEL L. MCKENNA</b>	<b>LIMITATION</b>
Manitowoc, WI	

Applicant may receive a permit after the Department receives a comprehensive report from a mental health provider acceptable to the Department attesting to the applicant's ability to safely and competently practice. Applicant must continue treatment and must file written reports. Effective 11/4/97.

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**MILLARD D. ELLIS**                      **HEARING DENIED**  
LaCrosse, WI

Applicant was convicted of a felony. His application for a private security permit was denied. Request for hearing denied. Effective 1/13/98.

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**SCOTT L. BENTZEN**                      **REVOCATION**  
Coon Valley, WI

Respondent was issued a limited private detective license on 10/4/96, based on a conviction record. Respondent failed to timely comply with all the terms of the limitation order. Effective 11/3/97.

## Telephones

The Division of Business Licensure & Regulation has installed a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for staff is:

**(608) 266-5511**

After dialing this number you are asked to press 1, 2, 3 or 4. For the following requests, please press the extension numbers as noted:

<b>Application Forms</b>	<b>Press 11</b>
<b>Complaints Against Licensees</b>	<b>Press 12</b>
<b>Whether A Person is Licensed</b>	<b>Press 21</b>
<b>Change of Address or Name</b>	<b>Press 21</b>
<b>Application Processing &amp; Requirements</b>	<b>Press 43</b>
<b>Changes of Employment</b>	<b>Press 22</b>

## Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>  
Send comments to [dorl@mail.state.wi.us](mailto:dorl@mail.state.wi.us)

## Wisconsin Statutes and Code

Copies of the Private Detective and Private Security Personnel Statutes and Administrative Code can be

ordered through the Bureau Office. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated April, 1998.

## Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided, but may be verified by calling the Bureau office one week after mailing the changes.

**WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.**

## Subscription Service

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